

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOSEPH D. MATEER,  
CHRISTOPHER BRANCHCOMB,  
and KATHARINE JOHNSON,  
*On behalf of themselves and all others  
similarly situated,*  
Plaintiffs,

VS.

PELOTON INTERACTIVE, INC.  
Defendant.

CASE NO. 1:22-cv-00740

JUDGE LORNA G. SCHOFIELD

MAGISTRATE JUDGE  
GABRIEL W. GORENSTEIN

MEMORANDUM ENDORSED

**PLAINTIFFS' NOTICE OF MOTION TO STRIKE  
CERTAIN OF DEFENDANT'S AMENDED AFFIRMATIVE DEFENSES**

PLEASE TAKE NOTICE THAT, pursuant to Rules 12 and 9 of the Federal Rules of Civil Procedure, and upon the accompanying Memorandum of Law in support hereof, Plaintiffs Mateer, Branchcomb, Johnson, and the members of the collective action conditionally certified pursuant to the federal Fair Labor Standards Act, hereby move to strike the following items from the Amended Answer [Dkt. No. 110] filed by Defendant Peloton Interactive, Inc.:

The Third, Fourth, Fifth, Sixth, Ninth, Tenth, and Twenty-Second Affirmative Defenses;  
and the Wherefore Clause contained therein.

Per paragraph 2.B of this Court’s Individual Practices, the parties have conferred and have agreed upon the following briefing schedule:

Plaintiffs' Notice of Motion and Memorandum due October 14.

Defendant's Memorandum in Opposition due October 28.

Plaintiffs' Reply Memorandum due November 4.

Dated: October 14, 2022

Respectfully submitted,

By: /s/ Jason R. Bristol

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***Attorneys for Plaintiffs, the FLSA Collective, and Proposed Classes***

In light of the fact that motions to strike are "disfavored," Rich v. New York, 2022 WL 4241380, at \*1 (S.D.N.Y. Sept. 15, 2022), the Court reminds the defendant of its order of September 2, 2022 (Docket # 117). The Court does not wish to adjudicate questions of what must be pled to support an affirmative defense if in fact the defendant is able to amend its answer now to satisfy plaintiffs' challenges. Accordingly, defendant is given leave to file a Second Amended Answer by the due date of its opposition brief. In such case, the parties shall consult and if any problems remain, plaintiff has leave to file a new motion to strike (following whose disposition defendant would be unlikely to be granted any further leave to amend). If defendant does not plan to file a Second Amended Answer, the briefing on the current motion will proceed.

So Ordered.

  
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GABRIEL W. CORENSTEIN  
United States Magistrate Judge

October 17, 2022

**CERTIFICATE OF SERVICE**

On this 14th day of October, 2022, a copy of the foregoing ***Plaintiffs' Notice of Motion to Strike Certain of Defendant's Amended Affirmative Defenses*** was served electronically on Counsel for Defendant Peloton Interactive, Inc., listed below:

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